

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

LEE E. MOORE,	:	
	:	
Petitioner	:	
	:	Case No. 1:00cv00023
v.	:	
	:	District Judge Susan J. Dlott
BETTY MITCHELL, WARDEN,	:	
	:	
Respondent	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to the United States Magistrate Judge. Pursuant to such reference, Magistrate Judge Merz reviewed the pleadings and filed with this Court a Decision and Order Denying Petitioner's Motion for Evidentiary Hearing (doc. #105). Subsequently, Petitioner filed the Appeal From the Decision and Order Denying Petitioner's Motion for Evidentiary Hearing (doc. #106) now pending before the Court.

Upon objections to a magistrate judge's order on nondispositive matters, the district judge "shall modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law." Fed. R. Civ. P. 72(a). The clearly erroneous standard applies to the magistrate judge's findings of fact and the contrary to law standard to his conclusions of law. See Gandee v. Glaser, 785 F. Supp. 684, 686 (S.D. Ohio 1992) aff'd 19 F.3d 1432 (6th Cir. Mar. 14, 1994) (Table). "A finding is clearly erroneous where it is against the clear weight of the evidence or where the court is of the definite and firm conviction that a mistake has been made." Galbraith v. Northern Telecom, Inc., 944 F.2d 275, 281 (6th Cir. 1991); see also Hood v. Midwest Sav. Bank, No. C2-97-218, 2001 WL 327723, at *2 (S.D. Ohio Mar. 22, 2001). A decision is

contrary to law “if the magistrate has misinterpreted or misapplied applicable law.” Hood, 2001 WL 327723, at *2 (internal quotation and citation omitted).

The Court has reviewed the decision of Magistrate Judge Merz and considered all of the filings in this matter. Upon consideration of the foregoing, the Court hereby **OVERRULES** Petitioner’s Appeal From the Decision and Order Denying Petitioner’s Motion for Evidentiary Hearing (doc. #106).

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge